

AMENDED IN SENATE MAY 7, 2014
AMENDED IN SENATE APRIL 7, 2014

SENATE BILL

No. 1317

Introduced by Senator Huff

February 21, 2014

An act to add ~~Sections~~ *Section* 47604.1 and 47604.2 to the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 1317, as amended, Huff. Charter schools.

(1) The Ralph M. Brown Act requires that all meetings of a legislative body, as defined, of a local agency be open and public and all persons be permitted to attend unless a closed session is authorized. The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend.

This bill, with respect to the operation of the charter school only, would clarify that the governing body of a charter school is subject to the Ralph M. Brown Act, unless it is operated by an entity governed by the Bagley-Keene Open Meeting Act, in which case the charter school would be subject to the Bagley-Keene Open Meeting Act.

(2) The California Public Records Act requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee unless the records are exempt from disclosure.

This bill, with respect to the operation of the charter school only, would clarify that the governing body of a charter school is subject to the California Public Records Act.

(3) Existing law prohibits certain public officials, including, but not limited to, members of governing boards of school districts and citizens' oversight committees, from engaging in specified activities that are inconsistent or incompatible with, or inimical to, their duties as public officials, including, but not limited to, entering into a contract in which the official or the official's family member has a financial interest, as specified.

This bill, with respect to the operation of the charter school only, would clarify that the governing body of a charter school is subject to these provisions unless the charter school is operated as, or operated by, a nonprofit public benefit corporation.

(4) Existing law also prohibits certain self-dealing transactions, as defined, in which a nonprofit public benefit corporation is a party and in which one or more of its directors has a material financial interest, as specified.

This bill would, notwithstanding the self-dealing provision described above for nonprofit public benefit corporations, impose certain requirements on the governing body of a charter school and a member of the governing body of a charter school if the charter school and the member enter into a loan agreement, real property lease agreement, or a guarantor agreement for a line of credit or real property lease, as specified.

(5) The Political Reform Act of 1974 requires every state agency and local governmental agency to adopt a conflict-of-interest code, formulated at the most decentralized level possible, that requires designated employees of the agency to file statements of economic interest disclosing any investments, business positions, interests in real property, or sources of income that may foreseeably be affected materially by any governmental decision made or participated in by the designated employee by virtue of his or her position.

This bill, with respect to the operation of the charter school only, would clarify that the governing body of a charter school is subject to the Political Reform Act of 1974.

(6) This bill would state various exceptions and clarifications regarding the applicability of the acts described above in paragraphs (1) to (3), inclusive, and (5).

(7) Existing law requires a member of the governing board of a school district to abstain from voting on personnel matters that uniquely affect a relative of the member.

This bill would require a member of the governing body of a charter school to abstain from voting on, or influencing or attempting to influence another member of the governing body of the charter school regarding, personnel matters that uniquely affect a relative, as defined, of the member but would authorize the member to vote on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. The bill would prohibit a person who is disqualified from holding a civil office from serving on the governing body of a charter school.

(8) This bill would make the above provisions operative on July 1, 2015.

~~(9) The California Constitution requires the state to reimburse local governments for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. Existing law authorizes the governing board of a school district or a county board of education, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, to request the State Board of Education to waive all or part of any section of the Education Code or any regulation adopted by the state board that implements a provision of that code that may be waived, except as provided.~~

~~This bill would provide, for purposes of those provisions, that a charter school is considered a local government or school district, as applicable.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 47604.1 is added to the Education Code,
2 to read:
3 47604.1. (a) Subject to the limitations of this subdivision and
4 with respect to the operation of a charter school only, the governing
5 body of a charter school is subject to all of the following:
6 (1) The Ralph M. Brown Act (Chapter 9 (commencing with
7 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
8 Code), except that a charter school operated by an entity governed
9 by the Bagley-Keene Open Meeting Act (Article 9 (commencing
10 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
11 2 of the Government Code) is subject to the Bagley-Keene Open
12 Meeting Act regardless of the authorizing entity.

1 (2) The California Public Records Act (Chapter 3.5
2 (commencing with Section 6250) of Division 7 of Title 1 of the
3 Government Code).

4 (3) Article 4 (commencing with Section 1090) of Chapter 1 of
5 Division 4 of Title 1 of the Government Code, unless the charter
6 school is operated as, or is operated by, a nonprofit public benefit
7 corporation pursuant to Section 47604.

8 (4) The Political Reform Act of 1974 (Title 9 (commencing
9 with Section 81000) of the Government Code). For purposes of
10 Article 3 (commencing with Section 87300) of Chapter 7 of Title
11 9 of the Government Code), a charter school shall be considered
12 an agency, and the Fair Political Practices Commission shall be a
13 charter school's code reviewing body.

14 (b) (1) Notwithstanding Section 5233 of the Corporations Code,
15 a member of the governing body of a charter school shall not
16 provide a loan to the charter school or sign a guarantor agreement
17 relative to a line of credit for the charter school unless all of the
18 following are satisfied:

19 (A) The governing body of the charter school adopts a resolution
20 at a public meeting declaring and describing the need for the loan
21 or the line of credit. In the case of a line of credit, the funds from
22 the line of credit shall not be accessed until the governing body of
23 the charter school complies with this paragraph.

24 (B) The governing body of the charter school discloses and
25 approves the loan agreement or line of credit, including the terms
26 of the loan or the line of credit, during a public meeting.

27 (C) The member of the governing body of the charter school
28 abstains from voting on, or influencing or attempting to influence
29 another member of the governing body regarding, all matters
30 affecting the loan agreement or the line of credit.

31 (2) Notwithstanding Section 5233 of the Corporations Code, a
32 member of the governing body of a charter school shall not lease
33 real property or sign a guarantor agreement relative to a lease of
34 real property to be occupied by a charter school unless both of the
35 following are satisfied:

36 (A) The governing body of the charter school discloses and
37 approves the real property lease agreement, including the terms
38 of the lease and the guaranty, if applicable, during a public meeting.

39 (B) The member of the governing body of the charter school
40 who is a lessor or guarantor of the real property to be occupied by

1 the charter school abstains from voting on, or influencing or
2 attempting to influence another member of the governing body of
3 the charter school regarding, all matters affecting the real property
4 lease agreement.

5 (3) A violation of this subdivision shall constitute grounds for
6 charter revocation pursuant to subparagraph (D) of paragraph (1)
7 of subdivision (c) of Section 47607.

8 (c) A member of the governing body of a charter school shall
9 abstain from voting on, or influencing or attempting to influence
10 another member of the governing body of the charter school
11 regarding, personnel matters that uniquely affect a relative of the
12 member but may vote on collective bargaining agreements and
13 personnel matters that affect a class of employees to which the
14 relative belongs. For purposes of this section, “relative” means an
15 adult who is related to the person by blood or affinity within the
16 third degree, as determined by the common law, or an individual
17 in an adoptive relationship within the third degree.

18 (d) A person who is disqualified by the California Constitution
19 or laws of the state from holding a civil office shall not serve on
20 the governing body of a charter school.

21 (e) To the extent that the governing body of a charter school
22 engages in activities that are not related to the operation of the
23 charter school, this section does not make those unrelated activities
24 subject to Section 1090 of the Government Code, the Ralph M.
25 Brown Act, the Bagley-Keene Open Meeting Act, or the California
26 Public Records Act. A meeting of the governing body of a charter
27 school to discuss items related to the operation of the charter school
28 shall not include discussion of any item regarding an activity of
29 the governing body of the charter school that is not related to the
30 operation of the charter school.

31 (f) Notwithstanding the requirements of the Ralph M. Brown
32 Act or the Bagley-Keene Open Meeting Act, the governing body
33 of a charter school may meet within the physical boundaries of
34 the state if all of the following are satisfied:

35 (1) Proper notices pursuant to the Ralph M. Brown Act or the
36 Bagley-Keene Open Meeting Act are posted at all charter school
37 facilities.

38 (2) A teleconference location is available in at least one charter
39 school facility within the physical boundaries of each county in
40 which any of the charter school’s facilities are located.

(3) The meeting location complies with the open, public, and accessibility requirements of the Ralph M. Brown Act or the Bagley-Keene Open Meeting Act. A charter school may also meet in a county contiguous to the county where one or more of the charter school's facilities are located if at least 10 percent of the pupils who are enrolled in the charter school reside in that contiguous county. A nonclassroom-based charter school that does not have a facility may meet within the boundaries of the county in which the greatest number of pupils who are enrolled in the charter school reside. This subdivision shall not limit the authority of the governing body of the charter school to meet outside these boundaries to the extent authorized by Section 54954 of the Government Code, provided that the meeting place is in compliance with Section 54961 of the Government Code.

(g) Neither the Ralph M. Brown Act nor the Bagley-Keene Open Meeting Act shall apply to committees of the charter school, unless the committee is comprised of a majority of the members of the governing body of the charter school.

(h) The governing body of a charter school may hold closed sessions to consider a matter regarding pupil discipline as described in Section 48912.

(i) A statement of economic interest that is filed by a designated person at a charter school after the required deadline pursuant to the Political Reform Act of 1974 shall not be the sole basis for revocation of a charter pursuant to Section 47607.

(j) Notwithstanding Section 6253 of the Government Code, a charter school, upon a request for a copy of records, shall, within 20 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in possession of the charter school and shall promptly notify the person making the request of the determination and the reasons for the determination.

(k) Notwithstanding Sections 6253 and 6253.9 of the Government Code, a charter school may require payment of actual costs from the person making the request before producing the records.

(l) The governing board of a school district, county board of education, or state board shall not impose on a charter school any requirements that are inconsistent with, or in addition to, the provisions of this section.

1 (m) Notwithstanding any other law, this section shall not apply
2 to actions taken before the operative date of this section.

3 (n) This section shall become operative on July 1, 2015.

4 ~~SEC. 2. Section 47604.2 is added to the Education Code, to~~
5 ~~read:~~

6 ~~47604.2. (a) For purposes of Section 6 of Article XIII B of the~~
7 ~~California Constitution, a charter school shall be considered a local~~
8 ~~government.~~

9 ~~(b) For purposes of Article 1 (commencing with Section 17550)~~
10 ~~of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government~~
11 ~~Code, a charter school shall be considered a school district.~~

12 ~~(c) For purposes of Section 33050, a charter school shall be~~
13 ~~considered a school district.~~